on such the dissenting opinions rely strongly, — but in almost all of them the finding that there had been due process of law rendered unnecessary the determination of the principal question. *Wilson* v. *North Carolina*, 169 U. S. 586. In the present case, however, the court declined to take jurisdiction expressly on the ground that the right to a public office was not such a proprietary right as could claim the benefit of the Fourteenth Amendment. Moreover, whether or not there was "due process" is no more than touched upon by the Chief Justice in the majority opinion. The case would therefore seem to stand as a direct decision on the point.

State authorities on the matter are in conflict. In North Carolina it is held that although for good reason the legislature may abolish an office, or reduce the salary of the incumbent, it may not arbitrarily, and without just compensation, displace A merely to install B in his place, since A has a vested right in the office. *Hoke* v. *Henderson*, 15 N. C. 31. The more common view is that a public office is in no respects property, but a mere agency or trust of the State, with which the State may deal as it pleases. *Conner* v. *Mayor, etc. of New York*, 5 N. Y. 285. Blackstone includes an office in his list of incorporeal hereditaments, and says that the term may be in fee, for life, or for years. 2 Bl. 36. In this country it is undoubted that a political office can never be held in fee, and it can hardly be considered as capable of absolute tenure for life or for years, since, as is universally held, the legislature may, in the absence of an express constitutional limitation, abolish or shorten the term of such office, or reduce the salary of the incumbent, without furnishing any compensation. This power, according to those who contend that an office is property, is put on grounds of public policy. The Supreme Court seems to have acted wisely in adopting the more general view, and in finally clearing away from a practical question the cobwebs of antiquated law.

THE LEGALITY OF STRIKES. — A recent decision by the Massachusetts court is of interest, as showing the practical difficulties in applying the doctrine that malicious interference with business is wrongful. In *Vegelahn* v. *Guntner*, 167 Mass. 92, "picketing" was held to be illegal. 10 HARVARD LAW REVIEW, 301. The court has recently decided that, in some cases, a labor union will be restrained from threatening to strike. *Plant* v. *Woods*, 57 N. E. Rep. 1011 (Mass.). In this case, the defendant union conspiring to force the plaintiffs, members of a rival union, to join their organization, intimated to the plaintiff's employer that unless the plaintiffs did so join or were discharged from their employment, strikes would be declared against him. The court held this action to be unjustifiable intimidation and granted an injunction restraining its continuance.

The same court has already decided that a combination is justified in taking steps to strengthen its organization at the expense of others. *Bowen* v. *Matheson*, 14 Allen, 499. Hence the obvious inference is, that motive alone does not determine the justification. In the principal case, the court finds an added element in that their threat meant more than a withdrawal. It meant that a refusal would be followed not only by a strike but also by the violence and annoying conduct which usually accompany strikes. Although this conduct may not be sanctioned by

the defendants, yet when they threaten to give the signal, they avail themselves of all the fear and coercion which these results call to mind. Such means, the court holds, will not be justified by the motive.

The practical result of this decision is, in some cases, to deprive organized labor of its most effectual weapon, and the question arises, how far will this be carried? If unions are deprived of these methods of securing redress for their grievances, it means that all strikes will be illegal. The court would not be willing, probably, to go to that length, and the decision is carefully limited to attempts to strengthen an organization by killing off its rivals. The majority seems to feel that there is a distinction between the final purpose of benefiting themselves individually and the preliminary purpose of better organization. They look on both as in the field of legitimate competition, but they do not think it policy to allow the union to use the same forceful means for increasing its strength as for the obtaining of higher wages. On this very question the court is divided. Chief Justice Holmes can see no reason why public policy should be more favorable to the one purpose than to the other. Considering the difficulties encountered by the court in the principal case, and the narrow technicalities on which the decision is based, it may well be doubted whether the departure of the Massachusetts court from the doctrine of *Allen* v. *Flood* is wise.

SELF-ACCUSATION AND DOUBLE JEOPARDY. — Where proceedings before a justice of the peace were due solely to the defendant's self-accusation, the resulting conviction was held, in a recent case, to be invalid, *De Bord* v. *People*, 61 Pac. Rep. 599 (Colo.). The defendant, having committed an assault, went before a justice, apparently without fraudulent intent, and swore to a complaint charging himself with the offence, whereupon the justice sentenced him to pay a fine of three dollars. Shortly afterwards the assaulted party swore out a complaint before another justice, and the defendant was brought before this second magistrate, and his plea of former conviction being overruled, he was fined five dollars. On appeal this ruling was approved.

It is difficult to see on what principle the decision can be supported. The plea of *autrefois acquit* rests on the rule that no one shall be twice put in jeopardy for the same offence. Such a plea is, therefore, invalid, where the defendant's previous conviction has been brought about by collusion with the justice, for, since such a defendant in fact controlled the proceedings, and could produce whatever result he pleased, he was never in any true jeopardy. But fraud which did not have this result ought not to vitiate a conviction. If it consisted in the defendant's bribing the accusing party, or in accusing himself with the intention of barring a subsequent prosecution, which he feared might prove more severe, he cannot be said, provided he did not collude with the justice, to have controlled the outcome of affairs. He, therefore, came into true jeopardy, that is in the danger of punishment which was not merely self-inflicted, and his conviction should be held a valid bar. The courts, however, not recognizing the true ground on which fraud may vitiate a proceeding, have confused these two classes of cases, and, whenever the point has arisen, have maintained the doctrine that fraud of any kind makes a conviction void. *State* v. *Dascom*, 111 Mass. 404.